**HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE**
**AND**
**HON'BLE SHRI JUSTICE G.V. SEETHAPATHY**

**WRIT APPEAL NO. 677 OF 2006**

Between:
The Forest Range Officer
Tekkali & another

**... Appellants**

And

S.K. Mastan Pyari John

**... Respondent**

**:: JUDGMENT::**

Counsel for the Appellants : Government Pleader for Forests

**Dated: 19.06.2006**

**Per G.S. SINGHVI, CJ**

Whether the Divisional Forest Officer, Srikakulam could confiscate the vehicle of the respondent by invoking the provisions of Section 44 (2-A) of the Andhra Pradesh Forest Act, 1967 (for short 'the Act') on the ground that the same was used for carrying casuarina firewood is the question which arises for determination in this appeal filed by the State of Andhra Pradesh and another under Clause 15 of the Letters Patent.

Respondent S.K. Mastan Pyari John is the owner of vehicle bearing Registration No. AP 30 T 5533. The same is said to have been intercepted by the Forest Section Officer, D.L.Puram Section on 20.07.2004 and was seized along with splitted casuarina firewood. The official concerned produced the vehicle along with casuarina firewood before Divisional Forest Officer, Srikakulam. The latter issued notice dated 27.09.2004 to the respondent requiring him to show cause against the proposed confiscation of the vehicle under Section 44(2-A) of the Act. The respondent submitted explanation stating therein that being an educated unemployed person, he purchased the vehicle in question for his livelihood and the same is used for transportation of vegetables and other materials. On 19.07.2004, the lorry was hired by Pappu Police on payment of Rs.1,000/- for transportation of splitted casuarina. In the course of transportation, the vehicle was seized by Forest Range Officer. He pleaded that he had no knowledge about the incident and, in any case, the offence, if any, committed by his driver may be compounded. He also undertook to pay the compounding fee. The Divisional Forest Officer did not agree with the respondent and passed order dated 10.10.2004 for confiscation of the vehicle along with casuarina firewood.

The respondent challenged the order of confiscation by filing an appeal in the Court of IInd Additional District Judge (Fast Track Court), Srikakulam (hereinafter described as 'the appellate authority'). The same was registered as C.M.A.No.20 of 2005. By an order dated 21.10.2005, the appellate authority allowed the appeal and ordered release of the vehicle.

In the writ petition preferred by them, the appellants questioned the legality and correctness of the order passed by the appellate authority by asserting that the same is vitiated by an error of law apparent on the face of the record. They pleaded that the appellate authority should not have interfered with the order of confiscation ignoring the fact that the respondent had come forward for compounding the offence. It was further pleaded that in view of the amendment made in the Act by Amending Act No.17 of 1976, the Additional District Judge did not have the jurisdiction to entertain the appeal.

The learned Single Judge noted that the appellate authority had assigned cogent reasons for setting aside the order of confiscation passed by the Divisional Forest Officer. The learned Single Judge then referred to the provisions of Sections 2(e) and 44(2-A) and Rules 3, 4 and 16 of the Andhra Pradesh Forest Produce Transit Rules, 1970 (for short 'the Rules') and held that once the casuarina wood is exempted from the ambit and reach of the Act, there could be no justification for confiscation of the vehicle used for its transportation.

Learned Government Pleader for Forests fairly stated that in terms of Rule 16 read with item (iii) of column IV of Schedule II, casuarina is among the classes of timbers exempted from the applicability of the Rules in all revenue districts of the State. He,

however, submitted that the transportation of casuarina firewood was, by itself, sufficient for holding the respondent guilty of committing forest offence and the learned Single Judge gravely erred by refusing to set aside order dated 21.10.2005 passed by the appellate authority.

We have given serious thought to the argument of the learned Government Pleader, but have not felt impressed. Item (iii) of column IV of Schedule II enumerates various classes of timber, which are exempted from the provisions of the Act and the Rules in different revenue districts of the State. Casuarina is exempted in all revenue districts of the State. Therefore, transportation of casuarina firewood in the vehicle owned by the respondent would not, by itself, amount to forest offence and the appellate authority did not commit any illegality by quashing the order of confiscation passed by the Divisional Forest Officer.

During the course of hearing, we enquired from the learned Government Pleader as to what could be the cost of splitted casuarina firewood recovered from the vehicle of the respondent. In reply, the Government Pleader for Forests stated that the total cost of casuarina firewood would not come to more than Rs.1,000/-. This shows that the State has been pursuing an extremely trifle case without any tangible reason.

For the reasons stated above, we hold that the order of the learned Single Judge does not suffer from any legal infirmity and the appeal is liable to be dismissed. Ordered accordingly.

**G.S. SINGHVI, CJ**

**G.V. SEETHAPATHY, J**

ksld
19.06.2006